



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:

PARK, SANG ON

Application No. 09/741,170

Filed: December 21, 2000

For: **DEVICE AND METHOD FOR
CONTROLLING OPTICAL
RECORDING/REPRODUCING DEVICE**

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DECISION
ON PETITION

This is a decision on the petition filed August 4, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment.

A Notice of Abandonment was mailed June 26, 2003 for failure to timely respond to the final Office action mailed October 16, 2002.

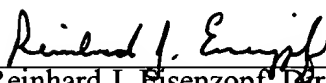
Petitioner alleges to have timely submitted a response to the Office action. In support, the Petitioner has included a copy of postcard receipt stamped April 16, 2003 itemizing a Notice of Appeal and a check for \$1250.00 to pay a three-month extension (\$930.00) fee and Notice of Appeal fee (\$320.00). These fees were credited to the account for the instant case on April 16, 2003. The petition includes a copy of the Notice of Appeal and the postcard receipt.

The original response was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as a *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but not matched with the application file.

Accordingly, the holding of abandonment is hereby vacated and withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the technical support staff for entry of the Notice of Appeal included with the petition. From there, it will be forwarded to the Examiner, since a Request for Continued Examination has been filed.


Reinhard J. Eisenzopf, Director (Acting)
Technology Center 2600
Communications